

11th December 2014

**IMPLEMENTATION OF THE EAT DECISION ON HOLIDAY PAY
NECC COMMUNICATION**

Following NJC Communique 05(14), issued yesterday, which included advice given by the ECIA to its member companies on the implementation of the EAT decision on holiday pay, the NECC has issued the attached correspondence to all Unite and GMB Regional Officers.

LEEDS OFFICE

Qur Ref:-BMcA

10th December 2014

To all Unite & GMB Full Time Officers

Dear Colleagues.

Ref:-NAECI 10.3 Payment for Holidays

Yesterday, both the NECC Chair and Secretary met with the representatives from the ECIA under the auspices of the NJC Executive Chairman following the recent EAT decision concerning Woods and others-v-Amec plus Law and others-v- Hertel regarding Holiday pay entitlement when overtime is worked in accordance with the national agreement.

Following extensive discussions the Employers final position is as follows:-

They have confirmed for the holiday year commencing the 5th January 2015 the employers will be adhering strictly to the Employment Appeals Tribunal Ruling and that all future annual holiday leave for the first 20 days entitlement will be paid at normal earnings as per regulation 13 of the 1998 Working Time Regulations.

Normal earnings are inclusive of the following where appropriate:-

- Hourly Rate of Pay (NAECI 18 & Appendix A.8)
- Overtime Premium (NAECI 7)
- Shift Working Allowances (NAECI 7.3 & Appendix A)
- Incentive Bonus Allowance (NAECI 19 & Appendix A.8 (c))
- Welders Proficiency Pay (NAECI 6.4)
- Returning to Work / Call out (NAECI 7.4 (h))
- Travelling Time Payment (NAECI 9.4 (c))
- Radius Allowance (NAECI 9.1(b) & Appendix A.4 Taxable element only)

The method for calculating normal earnings will be based on the average of the previous twelve working week period excluding sickness and holiday leave entitlement at the date, when the holiday actually commences in the leave year for 2015.

The remaining thirteen days will be calculated in the same manner based on 38 hours only excluding any overtime earnings, these days we understand to be the Eight Public Holidays and the Five days annual leave for the Christmas /New Year period.

In relations to any potential claims relating to **Back Pay**, the employer's position is as follows:-

Cont/d 2

- In addition, all employees must take up any potential claim for outstanding **Back Pay** in the first instance with their individual employer at local level through the company's internal grievance procedure and thereafter utilising the industry internal disputes procedure machinery up to stage 2 and subsequently they may lodge an Employment Tribunal Claim once their employers has confirmed the intentions.
- It's important you circulate this correspondence to all your NAECI Shop Stewards and Construction Branch Secretaries in your region to keep members up dated.

In conclusion I would confirm on the 9th December 2014, the NECC met with the Employers to formally commence negotiations in respect of our members 2016 Wages and Conditions claim, part of the claim is calling for all 33 days holiday to be calculated and paid at normal earnings in future.

Yours sincerely

Bernard McAulay

Bernard McAulay
NECC Secretary

Cc **Phil Whitehurst NECC Chair**

